

December 6, 2024

Delivered by Email: clerks@guelph.ca

The Corporation of the City of Guelph
Guelph City Hall
1 Carden Street
Guelph, ON N1H 3A1

Attention: Mayor Guthrie & Council

Dear Mayor Guthrie & Council:

**Re: Proposed Amendments to Comprehensive Zoning By-law (2023)-20790 in Decision Report Permitting Four Dwelling Units on a Lot City-initiated Zoning By-law Amendment 2024-405; December 10, 2024 City Council – Planning Meeting – Agenda Item 3.1
Our file: 090843-0001**

We act as lawyers for the Guelph & District Home Builders' Association ("**GDHBA**") and Guelph-Wellington Development Association ("**GWDA**"), in relation to their appeals of Guelph Zoning By-law No. (2023)-20790 ("**2023 Zoning By-law**") to the Ontario Land Tribunal ("**OLT**").

The GDHBA & GWDA have appealed the 2023 Zoning By-law in its entirety and the matter is proceeding through the OLT hearing process (Case No. OLT-23-000462). On March 28, 2024, the OLT issued a scoping order for the GDHBA/GWDA appeal which left some sections under appeal while bringing other sections into force on consent (the "**OLT Scoping Order**").

At the December 10, 2024, Council Planning meeting, staff are recommending that Council approve further amendments to the 2023 Zoning By-law to permit up to four dwelling units on lots in low density residential zones across the City and treat this meeting as sufficient to require no further public notice pursuant to the Planning Act in light of staff-proposed changes to the *under appeal* 2023 Zoning By-law.

In Attachment 2 to "Decision Report Permitting Four Dwelling Units on a Lot City-initiated Zoning By-law Amendment 2024-405", staff propose to amend the following sections of the 2023 Zoning By-law:

1. Sections **4.4, 4.12.1, 4.15, 4.23, 5.9**;
2. Tables **5.2, 5.3, 5.4, 5.10, 6.1, 6.2, 6.3**; and

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3. A number of definitions in the 2023 Zoning By-law (the “**Proposed 2023 Zoning By-law Amendments**”).

For greater clarity, the Proposed 2023 Zoning By-law Amendments bolded above remain under appeal.

As part of the OLT Scoping Order, the Tribunal stated, as follows:

THE TRIBUNAL ORDERS that the partial approval and coming into force of Comprehensive Zoning By-law (2023)-20790, as well as the scoping of any appeal, shall be strictly without prejudice to, **and shall not have the effect of limiting:**

[...]

The jurisdiction of the Tribunal to consider and approve modifications, deletions or additions to the unapproved portions of Comprehensive Zoning By-law (2023)-20790 on a general, area-specific, or site-specific basis, including issuing future Orders respecting the unapproved portions of Comprehensive Zoning By-law (2023)-20790 which are inconsistent with the Order resulting from the Tribunal as a result of this Motion hearing, provided that the parties shall be bound by the commitments made by them to scope their issues to a site-specific or area-specific basis.

As a result, the GDHBA and GWDA takes issue with the Proposed 2023 Zoning By-law Amendments where they seek to amend sections of the by-law before the OLT. For greater certainty, the GDHBA and GWDA have no concerns with the City holding another public meeting, soliciting public feedback on permitting four dwelling units on a lot in the 2023 Zoning By-law, or amending other sections of the 2023 Zoning By-law *not* held under appeal, however, only the OLT has the jurisdiction to amend sections of the 2023 Zoning By-law while under appeal at this time.

Instead, we respectfully suggest that if Council is inclined to permit up to four dwelling units on a lot in the 2023 Zoning By-law prior to the remaining sections coming into force through order of the OLT, that it simply pass a resolution directing its Staff and legal counsel to seek such an amendment through the current OLT hearing process.

Substantively, our clients take issue with the following proposed amendments:

1. The exclusion of semi-detached dwellings from section 4.12.1(a) of the Proposed Amendments, which permits three (3) Additional Dwelling Units (“**ADUs**”) in conjunction with single-detached dwellings alone. Semi-detached dwellings have been arbitrarily excluded, despite being previously included in the above-noted first draft presented to City Council in April 2024 (with full staff support at that time);
2. Our client also has concerns with the hurried preparation of the proposed Zoning By-law Amendment 2024-40. The hasty preparation of the proposed Zoning By-law Amendment 2024-40 is illustrated at page 7 of the Staff Presentation entitled “Proposed Zoning Regulation Changes to Enable Four (4) Units on a Lot” which shows examples of “Triplex with a detached ADU” and “Duplex with two ADUs” which staff say would be permitted under the proposed Zoning By-law Amendment, but which would contradict the express wording of the proposed Zoning By-laws Amendment.

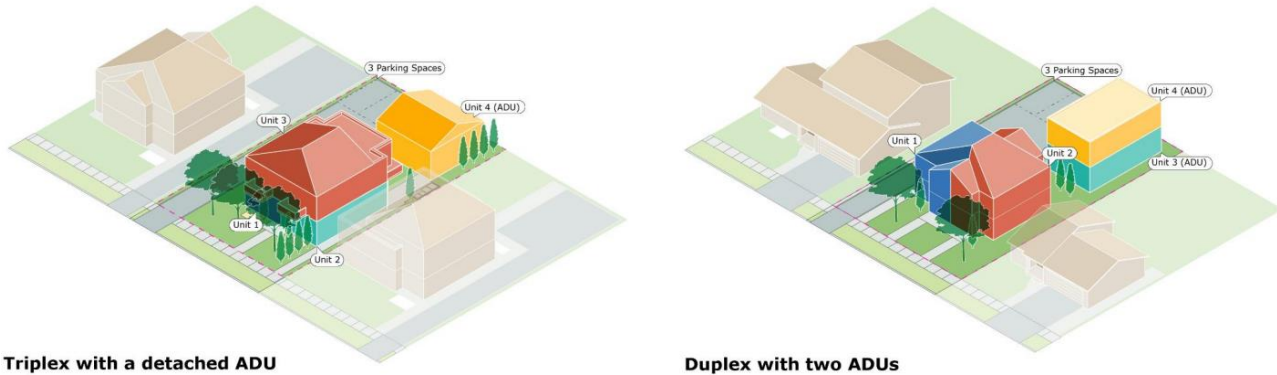


Fig. 1: Image capture from Attachment 5 – Council Presentation powerpoint, which shows examples of built form that Staff suggestion would be permitted, but would actually be prohibited under the draft ZBLA, as presented.

3. There is no rationale for requiring ADUs to be smaller than the “main dwelling unit” when Triplex and Fourplex built forms are permitted as-of-right in the RL.1 and RL.2 zones. Simply put, there is a distinction without a difference between a Triplex with a detached ADU and a Duplex with two (2) ADUs. Similarly, we question the rationale of requiring parking dimensions of 2.5m x 5.5m for residential exterior parking spaces for ADUs but requiring 2.75m x 5.5m for triplexes or fourplexes. A fourplex or triplex would be indistinguishable from a single detached home with 2 or 3 ADUs, respectively, and as such there is no planning rationale for differing parking space dimensions;
4. The electric vehicle parking requirements contained in sections 5.9(a), and (b) of the proposed Zoning By-law Amendment should not apply to any lots with up to 4 residential units, including buildings with 1, 2, or 3 ADUs, or Triplexes or Fourplexes. As presently drafted, a dwelling (single, semi or townhouse) with any number of ADUs would be exempted from the requirement to provide an EV parking space, but counterintuitively, triplexes and fourplexes would not have this same exemption. All of these housing types would be caught by 5.9(b), which requires *designed* (i.e., roughed-in) EV parking spaces for 80% of parking spaces, which is a significant barrier to uptake. We note that the Committee of Adjustment has already had to deal with variances from the EV parking requirements of a triplex (and approved same with full staff support – file: A-59/24¹); and,
5. With respect to servicing capacity, the requirement that all ADUs are now subject to confirmation of adequate and available servicing capacity in accordance with s. 4.10 of the 2023 Zoning By-law is a new requirement since the first draft previously reviewed by Council in April 2024 (previously only fourplexes had this additional caveat). Our clients opposes the addition of this provision on the basis that it simultaneously imposes an additional burden on owners, while disincentivizing further uptake and supply of ADUs, given that the limited addition of ADUs has a *de minimus* impact on servicing capacity.

Generally, our clients are supportive of the parking requirements in Tables 5.3 and 5.4 of the Proposed 2023 Zoning By-law Amendments. However, this submission is not meant to be exhaustive and we will reserve further substantive remarks for the proper forum (the OLT).

¹ City of Guelph Committee of Adjustment Decision for [A-59/24](#) dated August 8, 2024.

If you have any questions, please do not hesitate to contact our office.

Yours Very Truly,

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